



House of Representatives

General Assembly

File No. 279

January Session, 2009

House Bill No. 6445

House of Representatives, March 26, 2009

The Committee on Insurance and Real Estate reported through REP. FONTANA, S. of the 87th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING HOMEOWNERS INSURANCE POLICY PREMIUMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-686 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The following standards, methods and criteria shall apply to the
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a
8 noncompetitive market including a rate for insurance provided
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably
12 low for the insurance provided, and (B) continued use of it would

13 endanger solvency of the insurer, or unless (C) such rate is
14 unreasonably low for the insurance provided and the use of such rate
15 by the insurer using same has, or, if continued will have, the effect of
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness
18 standard in a noncompetitive market under subdivision (1) of
19 subsection (a) of this section, the inadequacy standard under
20 subdivision (2) of subsection (a) of this section and the requirement
21 that rates not be unfairly discriminatory, the following criteria shall
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and
24 prospective loss experience within and outside this state, to
25 conflagration and catastrophe hazards, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses both country-wide and those specially applicable to this
28 state, to investment income earned or realized by insurers both from
29 their unearned premium and loss reserve funds, and to all other
30 factors, including judgment factors, deemed relevant within and
31 outside this state and in the case of fire insurance rates, consideration
32 may be given to the experience of the fire insurance business during
33 the most recent five-year period for which such experience is available.
34 Consideration may be given in the making and use of rates to
35 dividends, savings or unabsorbed premium deposits allowed or
36 returned by insurers to their policyholders, members or subscribers.

37 (2) The systems of expense provisions included in the rates for use
38 by an insurer or group of insurers may differ from those of other
39 insurers or groups of insurers to reflect the operating methods of any
40 such insurer or group with respect to any kind of insurance, or with
41 respect to any subdivision or combination thereof.

42 (3) Risks may be grouped by classifications for the establishment of
43 rates and minimum premiums, provided that with respect to private
44 passenger nonfleet automobile insurance, any change in territorial
45 classifications shall be subject to prior approval by the Insurance

46 Commissioner, and provided no surcharge on any motor vehicle
47 liability or physical damage insurance premium may be assigned for
48 (A) any accident involving only property damage of one thousand
49 dollars or less, or (B) the first accident involving only property damage
50 of more than one thousand dollars which would otherwise result in a
51 surcharge to the policy of the insured, within the experience period set
52 forth in the insurer's safe driver classification plan, or (C) any violation
53 of section 14-219 unless such violation results in the suspension or
54 revocation of the operator's license under section 14-111b, or (D) less
55 than three violations of section 14-218a within any one-year period, or
56 (E) any accident caused by an operator other than the named insured,
57 a relative residing in the named insured's household, or a person who
58 customarily operates the insured vehicle, or (F) the first or second
59 accident within the current experience period in relation to which the
60 insured was not convicted of a moving traffic violation and was not at
61 fault, or (G) any motor vehicle infraction. Subparagraph (G) of this
62 subdivision shall not be applicable to any plan established pursuant to
63 section 38a-329. Classification rates may be modified to produce rates
64 for individual risks in accordance with rating plans which provide for
65 recognition of variations in hazards or expense provisions or both.
66 Such rating plans may include application of the judgment of the
67 insurer and may measure any differences among risks that can be
68 demonstrated to have a probable effect upon losses or expenses.

69 (4) Each rating plan shall establish appropriate eligibility criteria for
70 determining significant risks which are to qualify under the plan.
71 Rating plans [which] that comply with the provisions of this
72 subdivision shall be deemed to produce rates [which] that are not
73 unfairly discriminatory.

74 (c) Notwithstanding the provisions of subsections (a) and (b) of this
75 section, no rate shall include any adjustment designed to recover
76 underwriting or operating losses incurred out-of-state.

77 (d) (1) Notwithstanding the provisions of subsections (a) and (b) of
78 this section, no homeowners insurance policy rate shall be increased

79 because of a damage claim arising from a violation of section 53a-
80 100aa, that is submitted by an insured.

81 (2) If an insurer increases a homeowners insurance policy rate or
82 imposes a penalty because of a claim other than as specified in
83 subdivision (1) of this subsection, such insurer shall provide to such
84 insured at the time of renewal written disclosure of the specific
85 amount of the increase or penalty attributable to the claim, the
86 duration such increase or penalty shall be in effect and the date such
87 increase or penalty will be removed.

88 [(d)] (e) The commissioner may adopt regulations in accordance
89 with the provisions of chapter 54 concerning rating plans to effectuate
90 the provisions of this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2009	38a-686
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INS *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill does not result in a fiscal impact. It restricts homeowner insurers from increasing a homeowner's insurance policy rate based on that homeowner submitting a claim related to home invasion.

The Out Years

None

OLR Bill Analysis**HB 6445*****AN ACT CONCERNING HOMEOWNERS INSURANCE POLICY PREMIUMS.*****SUMMARY:**

This bill prohibits an insurer from increasing a homeowners insurance policy rate because the insured submitted a damage claim resulting from a home invasion.

It requires an insurer that increases an insured's homeowners insurance policy rate or imposes a penalty because of a claim he or she submitted, excluding one arising from a home invasion, to inform the insured in writing at policy renewal time (1) of the specific increase or penalty amount due to the claim, (2) how long the increase or penalty will be effective, and (3) the date it will be removed.

The bill allows the commissioner to adopt implementing regulations, a power he already has concerning rating plans for personal risk insurance, including homeowners insurance. By law, insurers must file rates with the Insurance Department for review.

EFFECTIVE DATE: October 1, 2009

BACKGROUND***Related Bill***

The Insurance and Real Estate Committee favorably reported HB 6280, which extends the sunset date for the flex rating law for personal risk insurance.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 19 Nay 0